

## **REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application in view of the amendments and the remarks to follow. Claims 22, 23, 45 and 53 have been amended and claims 26-36 and 46-48 have been canceled. Claims 1-25, 37-45 and 49-56 are pending in this application.

The amendments to the specification and drawing respond to the concerns noted in the Office Action, address minor informalities noted during review and/or bring the specification and drawings into mutual conformance. The amendments to claims 22, 23, 45 and 53 address minor informalities noted during review, however, these amendments are not intended to alter the scope of the claims. The amendment to Fig. 7 obviates a redundant employment of a reference character. The Examiner's approval of the amendment to the drawing is respectfully requested. No new matter is added by the amendments to the specification, drawings or claims.

Claims 26-36 and 46-48 have been canceled without prejudice simply to reduce the number of issues and thus to promote compact prosecution. Such cancellation does not imply agreement with the grounds of rejection, and Applicant reserves the right to pursue the subject matter encompassed by such canceled claims.

### 35 U.S.C. § 102

Claims 1-56 are stated (p. 2, Office Action dated August 3, 2004) to stand rejected under 35 U.S.C. §102(b) as being anticipated by WO 99/30217 to Gong (hereinafter "Gong"). Applicant respectfully disagrees and requests reconsideration. Claims 26-36 and 46-48 have been canceled, rendering their rejection moot.

Anticipation is a legal term of art. Applicant notes that in order to provide a valid finding of anticipation, several conditions must be met: (i) the reference must include every element of the claim within the four corners of the reference (see MPEP §2121); (ii) the elements must be set forth as they are recited in the claim (see MPEP §2131); (iii) the teachings of the reference cannot be modified (see MPEP §706.02, stating that "No question of obviousness is present" in conjunction with anticipation); and (iv) the reference must enable the invention as recited in the claim (see MPEP §2121.01). Additionally, (v) these conditions must be simultaneously satisfied.

The §102 rejection of claims 1-25, 37-45 and 49-56 is believed to be in error. Specifically, the PTO and Federal Circuit provide that §102 anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). The corollary of this rule is that the absence from a cited §102 reference of any claimed element negates the anticipation. *Kloster Speedsteel AB, et al. v. Crucible, Inc., et al.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986).

No §103 rejection has been lodged regarding claims 1-25, 37-45 and 49-56. Accordingly, if Applicant can demonstrate that Gong does not disclose any one

claimed element with respect to claims 1-25, 37-45 and 49-56, the §102 rejections must be withdrawn, and a subsequent non-final action made with a different rejection in the event that the Examiner still finds such claims to be not allowable.

Applicant notes the requirements of MPEP §2131, which states that "TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM." This MPEP section further states that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)."

Gong is directed to (Title) "protection domains to provide security in a computer system". Gong teaches that: "A method and apparatus are provided for maintaining and enforcing security rules using protection domains. As new code arrives at a computer, a determination is assigned to a protection domain based on the source from which the code is received. The protection domain establishes the permissions that apply to the code. In embodiments where the code to be executed by the computer belongs to object classes, an association is established between the protection domains and the classes of objects. When an object requests an action, a determination is made as to whether the action is permitted based on the

class to which the object belongs and the association between classes and protection domains." (Abstract).

In contrast, claim 1 recites: "A method for generating a permission grant set for a code assembly received from a resource location, the method comprising: receiving a security policy specification defining a plurality of code groups, each code group being associated with a code-group permission set; receiving evidence associated with the code assembly; evaluating the evidence relative to the code groups to determine membership of the code assembly in one or more of the code groups; and generating the permission grant set based on one or more code-group permission sets, each of the one or more code-group permission sets being associated with a code group in which the code assembly is a member", which is not taught or disclosed by Gong.

More specifically, Gong provides no teaching of "receiving a security policy specification" or of such specification "defining a plurality of code groups" ... "associated with a code-group permission set", as recited in each of claims 1, 24, 25 and 37. Gong instead teaches that "As new code arrives at a computer, a determination is assigned to a protection domain based on the source from which the code is received."

The Office Action states (p. 3) that "evidence associated with the code assembly" is met by class definitions contained in the code stream 220 in Fig. 2, and points to page 8, lines 3-5 in support of this statement. That passage, however, does not describe anything that Gong suggests be employed as evidence to be used in "evaluating the evidence relative to the code groups to determine membership of the code assembly in one or more of the code groups" and provides

no teaching or disclosure of "generating the permission grant set based on one or more code-group permission sets, each of the one or more code-group permission sets being associated with a code group in which the code assembly is a member", as recited in each of claims 1, 24, 25 and 37. Gong teaches simply associating a code module with a protection domain based solely on the source from which the code originated.

Also in contrast to the disclosure of Gong, claim 49 recites "A method of verifying a code assembly received from a resource location, the method comprising: receiving a security policy specification defining a security policy; receiving evidence associated with the code assembly; evaluating the evidence relative to the security policy; performing verification on the code assembly; detecting a verification failure of the code assembly in the operation of performing verification; and determining whether the code assembly may be executed despite the verification failure, responsive to the evaluating operation", while claim 53 recites "A method of verifying a code assembly received from a resource location, the method comprising: receiving a security policy specification defining a security policy; receiving evidence associated with the code assembly; evaluating the evidence relative to the security policy; generating a permission grant set, responsive to the evaluating operation; determining based on the permission grant set that a step of a verification process is unnecessary; communicating to a verification module that the step of the verification process may be bypassed; performing the verification process on the code assembly with the verification module; and bypassing the step of the verification process, responsive to the

communicating operation", which recitations are neither taught nor disclosed by Gong.

The Office Action states (page 4, item 7) that, with respect to claims 22, 23, 49 and 53, "performing verification on the code assembly" is met by Fig. 4, and that "determining whether the code assembly may be executed despite the verification failure" is met by block 428 in Fig. 4. Gong, however, teaches (page 11, line 11 et seq.) that "A method for establishing protection domains authorized for an object executing on computer system 200 shall now be described with reference to steps shown in Fig. 4." Gong also teaches (page 12, line 21 et seq.) that "Next, in step 428, the mapping of the class to the protection domain is established. The mapping of the class to the protection domain is added to a mapping data structure maintained within the domain mapper 248. In this example, a mapping between class 260 and protection domain object 282 is created." In other words, the description provided by Gong of block 428 is completely unrelated to the proposition for which it is cited by the Office Action. Clarification of the rejection is respectfully requested.

In summary, Gong fails to provide the elements of Applicant's claims, and thus cannot possibly provide them as they are set forth in the claims. As a result, it is impossible for Gong to enable the subject matter of Applicant's claims in the sense of 35 U.S.C. 112, and requires modification impermissible in a valid finding of anticipation to achieve the subject matter of Applicant's claims. Inasmuch as Gong fails each of the four prongs of the tests set forth in the MPEP for determination of anticipation, Gong cannot possibly satisfy those prongs simultaneously. Accordingly, the anticipation rejection of claims 1-25, 37-45 and


49-56 fails all five of the above-noted criteria for anticipation. The rejection of claims 1-25, 37-45 and 49-56 is in error and should be withdrawn, and claims 1-25, 37-45 and 49-56 should be allowed.

**Conclusion**

Claims 1-25, 37-45 and 49-56 are in condition for allowance. Applicant respectfully requests reconsideration and issuance of the subject application. Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.

Respectfully Submitted,

Date: Jan. 3, 2005

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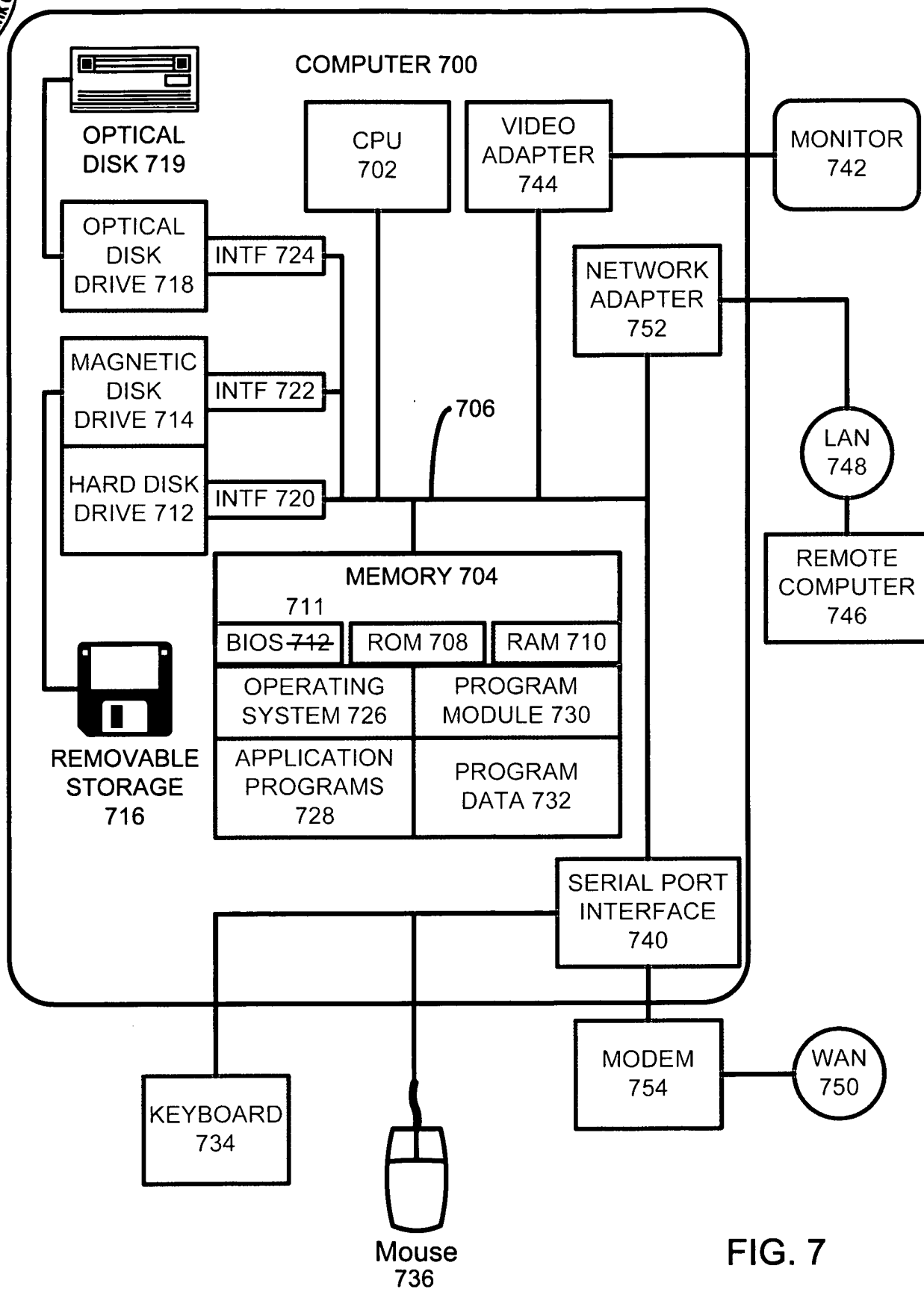


FIG. 7